

## **Remarks**

Applicant acknowledges, with thanks, the Examiner's indication that Soboleski may be overcome by "excluding any rough surface and requiring the ability for the assembled implant (or, for example, the implant, in use) to be able to articulate in multiple directions." (Office Action, p. 6). The claims have been amended in an attempt to incorporate the limitations suggested by the Examiner.

### ***Claims***

Claims 1, 14, 20, 41, 47, 53, 54, 56-58, and 63 have been amended. The claims have been amended in an attempt to incorporate the limitations suggested by the Examiner. In addition, claim 53 has been amended to remove means-plus-function language.

### ***Rejections - 35 U.S.C. § 102(e)***

Claims 1-2,4-6,8-11,14-17,19-20,41-44,46-49,51-55,57-61 and 63 were rejected under 35 U.S.C. 102(e) as being anticipated by the Soboleski et al. (US Patent Publication Number 2002/0151895). As discussed above, the Examiner indicate that Soboleski may be overcome by "excluding any rough surface and requiring the ability for the assembled implant (or, for example, the implant, in use) to be able to articulate in multiple directions." (Office Action, p. 6). The claims have been amended to require that the entire contact area of the articulating surfaces be generally smooth. It is believed that the amendments to the claims overcome Soboleski, which discloses implants that have rough surfaces in contact with one another and are incapable of multidirectional articulation when in contact.

Accordingly, it is respectfully submitted that claims 1-2,4-6,8-11,14-17,19-20,41-44,46-49,51-55,57-61 and 63 are in condition for allowance.

### ***Rejections - 35 U.S.C. § 103***

Claims 3, 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Soboleski and claims 7, 18, 45, 50 and 56 were rejected as being unpatentable

over Soboleski in view of Yuan et al. (U.S. Patent Publication Number 2005/0143818). For the reasons discussed above, Soboleski does not meet the limitations of the independent claims.

Accordingly, it is respectfully submitted that claims 1-20 and 41-63 are in condition for allowance.

### ***Conclusion***

It is submitted that this application is in condition for allowance and an early action to that effect is earnestly solicited.

Respectfully submitted,

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